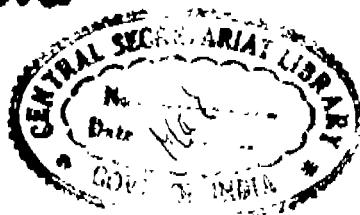




भारत का राजपत्र

The Gazette of India

प्रतिधारण
EXTRAORDINARY
भाग II—भाग 2
PART II—Section 2
प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY



सं० ४७] नई विस्ती, शुक्रवार, दिसम्बर १, १९९५/अग्रहायन ११, १९१७
No. 47] NEW DELHI, FRIDAY, DECEMBER 1, 1995/AGRAHAYANA 11, 1917

इस भाग में निम्न पृष्ठ संख्या वाली जाती है जिससे कि यह अलग संकलन के
रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on the 1st December, 1995:—

I

BILL No. XXXIX OF 1995

A Bill to abolish employment of children, bonded or otherwise, in hazardous employment.

Be it enacted by Parliament in the Forty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Abolition of Child Labour in Hazardous Employment Act, 1995.

Short title,
and extent.

(2) It extends to the whole of India.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "appropriate Government" means in relation to an establishment under the control of the Central Government, the Central Government, and in all other cases the State Government;

(b) "child labour" means a person below the age of fourteen years engaged in any job or occupation;

(c) "employer" means the person who engages a child in hazardous jobs and if the employer is a company or a corporate body, the Chairman or the Managing Director of the company or Corporation;

(d) "hazardous employment" means engagement in a hazardous job, occupation or enterprise, in a situation where the worker is exposed to perils to life or serious accident, chronic diseases involving grievous hurt, or depravity or degeneration in life and includes engaging children in begging or collecting alms, or in immoral or criminal acts having direct impact on moral and character of the child.

Abolition of child Labour.

3. Child Labour in hazardous employment in any form shall be abolished.

4. Whoever engages children in hazardous employment shall be punishable with imprisonment, which shall not be less than three years and with fine which shall not be less than twenty thousand rupees.

Provided that if the child labour is a girl child or a bonded child and is engaged in—

- (i) begging; or
- (ii) jobs involving moral turpitude; or
- (iii) works having direct impact on the morality of the child;

the employer shall be punishable with imprisonment which shall not be less than five years and with fine which shall not be less than fifty thousand rupees.

5. If a police officer, responsible for registering cases under his territorial jurisdiction, refuses to register a FIR for an offence punishable under this Act, or otherwise aids or abets the commission of such offence he shall be punishable with imprisonment which shall not be less than two years and with fine which shall not be less than ten thousand rupees.

6. The appropriate Government shall by notification in the Official Gazette declare a comprehensive list of hazardous employments and jobs being pursued within its territorial jurisdiction.

7. The appropriate Government shall within a month of the commencement of this Act frame rules for carrying out the provisions of this Act.

Punish-
ment for
Police
Officers.

Appropri-
ate
Govern-
ment to
declare
hazardous
employ-
ments.

Power to
make
rules.

STATEMENT OF OBJECTS AND REASONS

Article 24 of the Constitution of India, provides for prohibition of employment of children below fourteen years "in any factory or mine or engaged in any other hazardous employment." Every child has a right against exploitation. The very fact that a child is kept away from school and is made to work for earning bread by itself smacks of exploitation. In a welfare democratic 'State' like India, it is for the 'State' to provide for conditions in which personality of a citizen can develop to its best self. But when a child is forced to give up its toys and take to tools and is deprived of basic education, so essential for development of personality, it obviously speaks of exploitation of the child.

Yet the growing population of the country, a high percentage of which (over 35 per cent) continues to live below poverty line, explains the inevitability of a huge work force; comprising of children. The presence of child labour in hazardous industries and jobs however is a gross violation of human rights. There is thus a need for effective enforcement and implementation of Article 24, to prohibit employment of children in hazardous jobs and environs. Despite the constitutional provision prohibiting engagement of children in hazardous jobs, millions of children continue to work in fire-works and match factories of Sivakasi, glass and bangle factories of Ferozabad, carpet factories of Varanasi; slate, pencil industry in Madhya Pradesh, mines, bidi factories and other hazardous factories. Lakhs of children are engaged by their parents and their masters in begging, which occupation by its very nature cannot allow them to be good citizens. Several children are found engaged as carriers by smugglers and drug peddlers. The damage done by such occupations to the life of these citizens of tomorrow can better be imagined than described.

An effort was made in 1986 to prohibit and regulate employment of children in hazardous jobs. Hon'ble Prime Minister announced an action plan to eliminate and abolish employment of children in hazardous jobs. Even though the 1986 Act incorporated a schedule enumerating the hazardous jobs, yet the law does not define precisely what "hazardous employment" means. A serious attempt should therefore be made to define what is called "hazardous employment", which should not only encompass jobs involving hazards to life or posing physical danger, but also to include jobs posing grave threat of devastation to the very character and nature of the child even forcing them into depravity.

Since the enactment of the law has failed to deter engagement of children in hazardous jobs, and the number of child workers in such jobs continue to increase even during the last 10 years when we have been particularly alive to the evils of child labour. Latest figures show that from 10 per cent to 30 per cent of the work force in hazardous industries like State and slate pencil, glass, fire works and metal industry comprise of children; and yet it is only the tip of an iceberg. An effort therefore be made to make the law more deterrent, not only for employers, but also for the law enforces who collude in, by preferring to turn a blind eye to child labour employed in varied hazardous jobs, or refusing to register cases or otherwise abet in perpetuation thereof.

Hence this Bill.

RAJUBHAI A. PARMAR.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 of the Bill gives power to the appropriate Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

II

BILL NO. LXII OF 1995

A Bill to provide for the taking over of management of the undertakings of the Banking Companies specified in the Schedule for a limited period with a view to securing their proper management so as to subserve the public interest and for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Forty-sixth Year of the Republic of India as follows:—

CHAPTER I**PRELIMINARY**

1. This Act may be called the Banking Companies (Taking Over of Management) Act, 1995. Short title.

2. In this Act, unless the context otherwise requires.—

Definitions.

(a) "Banking Companies" means the Companies specified in the Schedule;

(b) "notified order" means an order notified in the Official Gazette;

10 of 1949.
1 of 1956.

Appointment
of Boards of
Control to take
over
management
of the Banking
Companies.

Effect of
notified order.

- (c) "prescribed" means prescribed by rules made under this Act;
- (d) "Schedule" means the Schedule to this Act;
- (e) "Undertakings" means the property and assets of the Banking Companies specified in the Schedule;
- (f) Words and expressions used but not defined in this Act and defined in the Banking Regulation Act, 1949 and the Companies Act, 1956, shall have the meanings, respectively assigned to them in those Acts.

CHAPTER II

THE TAKING OVER OF THE MANAGEMENT OF THE BANKING COMPANIES

3. (1) The Central Government may, by notified order, appoint such number of Boards of Control, as it may think fit, to take over the management of the undertakings of Banking Companies specified in the Schedule.

(2) Every Board of Control shall consist of a Chairman and such number of other members not exceeding ten, as the Central Government may think fit.

(3) The term of office of, the procedure to be followed by, and the manner of filling vacancies among, the Chairman and the members of the Boards of Control, shall be such as may be represcribed.

(4) The Salary, allowances and other conditions of service of the Chairman and the members of the Boards of Control shall be such as may be determined by the Central Government.

(5) Every notified order issued under sub-section (1) shall remain in force for such period not exceeding five years as may be specified in the order:

Provided that if the Central Government is of opinion that in order to secure the proper management of the Banking Companies, it is expedient that any such notified order should continue in force after the expiry of the period of five years as aforesaid, it may, from time to time, issue notifications for its continuance for such periods, not exceeding two years at a time, as may be specified in the notification, but no such notified order shall in any case remain in force for more than a total period of fifteen years and where such notification is issued, a copy thereof shall be laid, as soon as may be, before each House of Parliament.

4. (1) On the issue of a notified order under section 3,—

(a) all persons in-charge of management including persons holding offices as Directors or Managers or any other managerial personnel of the Company, immediately before the issue of the notified order shall be deemed to have vacated their offices as such;

(b) any contract of management between the Banking Companies and any Managing Agent or any Director or any other managerial personnel thereof holding such office immediately before the issue of the notified order, shall be deemed to have been terminated;

(c) as from the date of the notified order, all the properties, assets and effects of the Banking Companies shall be deemed to be in the custody of the Boards of Control who shall, as soon as may be after such date, take all such steps as may be necessary to take into possession or control all such properties, assets and effects and all actionable claims to which the Banking Companies are, or appear to be, entitled.

(2) Subject to the provisions of this Act, the Boards of Control shall take such steps as may be necessary for the purpose of efficiently managing the business of the Banking Companies and shall exercise such other powers and have such other duties as may be prescribed.

CHAPTER III

MISCELLANEOUS

5. (1) Where a notified order has been made under sub-section (1) of section 3 in relation to the Banking Companies, every person having possession, custody or control of any property of the Banking Companies shall deliver the property to the respective Board of Control or to such person or persons as may be authorised by the Board in this behalf.

Duty to deliver possession of property and documents relating thereto.

(2) The Central Government may take all necessary steps for securing possession of all the assets and properties of the Banking companies.

Duty to furnish particulars.

6. Every Banking Company shall, within ten days from the date of commencement of this Act or within such further period as the Central Government may allow in this behalf, furnish to the respective Board of Control a complete inventory of all their properties and assets as existing at the time of commencement of this Act.

Protection of action taken in good faith.

7. No suit, prosecution or other legal proceeding shall lie against the Central Government or the Boards of Control for anything which is in good faith done, or intended to be done, under this Act.

Act to have overriding effect.

8. The provisions of this Act or any order or rule made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any law other than this Act or in any instrument having effect by virtue of any other law.

Payment of remuneration and expenses out of funds of Banking Companies.

9. All salaries, allowances and other remuneration paid to the Chairman and other members of the Boards of Control and all other expenses duly incurred in connection with such management, shall be paid out of the funds of the Banking Companies.

Power of Central Government to give directions.

10. Notwithstanding anything contained in the foregoing provisions of this Act, the Central Government may give such directions to the Boards of Control, as it may think fit, for proper management of the Banking Companies and the Boards of Control shall comply with such directions.

Power to make rules.

11. The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act and shall cause them to be laid, as soon as may be, before each House of Parliament.

Power to remove difficulties.

12. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, not inconsistent with the provisions of this Act, remove the difficulty.

SCHEDULE

[See Section 3(1)]

1. Jammu and Kashmir Bank, Srinagar
2. Bank of Rajasthan, Udaipur
3. Federal Bank, Alwaye
4. Vysya Bank, Bangalore
5. South Indian Bank, Trichur
6. Karnataka Bank, Mangalore
7. United Western Bank, Satara City
8. Catholic Syrian Bank, Trichur
9. United Industrial Bank, Calcutta
10. Sangli Bank, Sangli

11. Tamilnadu Mercantile Bank, Tuticorin
12. Karur Vysya Bank, Karur
13. Benaras State Bank, Varanasi
14. Barath Overseas Bank
15. VILAS
16. Bank of Cochin, Ernakulam
17. Bareilly Corporation (Bank), Bareilly
18. Nedungadi Bank, Kozhikode
19. Tanjore Permanent Bank, Tanjore
20. DNACL
21. Naini Tal Bank, Naini Tal
22. Kumbakonam City Union Bank, Kumbakonam
23. Traders' Bank, New Delhi
24. Parur Central Bank, Parur
25. KRISHN
26. Ratnakar Bank, Kolhapur
27. PRUBK
28. KASRI
29. Miraj State Bank, Miraj

STATEMENT OF OBJECTS AND REASONS

Since there has been complaints of mismanagement and corruption against the authorities of Private Banks and there has been cases of violation of the directives of the Reserve Bank by these Private Banks and instances of Banking Laws being violated, there is growing feeling that the interests of the depositors will not be safe if these banks are run by private bankers.

Hence this Bill.

GURUDAS DAS GUPTA

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 of the Bill authorises the Central Government to make rules for carrying out the purposes of the Bill. These are matters of detail and as such the delegation of legislative power is of a normal character.

III

BILL NO. LXIII OF 1995

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Forty-Sixth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1995	Short title.
2. After article 16 of the Constitution, the following new article shall be inserted, namely:—	Insertion of new article 16A.
“16A. All adult citizens shall have the right to work, that is to say, the right to guaranteed employment and payment for their work in accordance with its quantity and quality, so as to ensure them adequate means of livelihood.”	

Right to work.

STATEMENT OF OBJECTS AND REASONS

Democracy without universal facility for education followed by total guarantee for employment is a farce. Any talk of liberty, freedom and democracy is an insult to those who do not have an opportunity to get employment after their education. Unemployment is increasing day by day in our country. The number of registered unemployed persons is almost three crores. Besides, there are crores of people who have not registered their names in the employment exchanges. This is causing erosion of moral values and frustration among the youth of our country. Government is not serious in taking effective measures to provide jobs to all unemployed. Though the Right to work is mentioned in the Directive Principles, it remains outside the purview of the courts of law. If the Right to Work is made a Fundamental Right the persons seeking employment unsuccessfully can seek the help of the courts of law to force the Government in providing job to him. Right to work as a Fundamental Right will give a new direction and responsibility to the Government to take all necessary measures to guarantee employment to the people. If the Government fails to provide employment, there should be a provision for adequate compensation.

Hence this Bill.

GURUDAS DAS GUPTA

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides that all adult citizens shall have the right to work and payment for their work in accordance with its quantity and quality so as to ensure them adequate means of livelihood. The Central Government and State Governments shall have to take steps to provide employment to adult citizens who remain unemployed. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India in respect of Central Schemes and for providing of financial assistance to Union territories Governments. An annual recurring expenditure of about rupees two hundred crores is likely to be involved from the Consolidated Fund of India.

A non-recurring expenditure of about rupees one hundred crores is likely to be involved.

IV

BILL No. LXIV OF 1995

A Bill further to amend the Constitution of India

BE it enacted by Parliament in the Forty-sixth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1995.

Short title.

2. To article 292 of the Constitution, the following proviso shall be added, namely:—

Amendment of article 292.

"Provided that the Executive power of the Union for such borrowing from any International Fund or Financial Institution shall not exceed five per cent. of the gross domestic product (GDP) in the year in which such borrowing takes place.".

STATEMENT OF OBJECTS AND REASONS

Article 292 of the Constitution gives power to the Union Government to borrow upon the security of the Consolidated Fund of India. Under this provision the Union Government has gone in for massive loans from the IMF, World Bank etc. on conditions which are harmful to the self reliant national economy. This borrowing on massive scale from international fora has increased craze for soft options to deal with the problems on the economic front. As a result the Union Government has become habitual in borrowing everytime to augment the balance of payment position of the country. Article 292 also provides that Parliament may fix the limits of borrowing by the Union but unfortunately no such limit has been prescribed so far.

Thus the need of fixing the borrowing limit in the Constitution itself is being urgently felt to restrain the Union Government from going in for reckless borrowing from International Financial Institutions at the cost of national prestige.

Hence this Bill.

GURUDAS DAS GUPTA

V

BILL NO. LXV OF 1995

A Bill to prevent the barbarous and beastly cruelty against women such as battering or killing by strangulating or by any other means after committing rape on her, chopping the body into pieces or burning the body in tandoor, or by sprinkling petrol, kerosene or by other inflammable object after committing gangrape or raping a pregnant woman resulting in her death or miscarriage or burning alive any women by providing deterrent punishment of capital punishment and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Forty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Prevention of Barbarous and Beastly Cruelty Against Women Act, 1995.

Short title,
extent and com-
mencement.

(2) It extends to the whole of India.

(3) It shall come into force at once.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) appropriate Government means in the case of a State, Government of that

State and in other cases the Central Government;

(b) barbarous and beastly cruelty includes—

- (i) killing a woman by battering, strangulating or by any other means after committing rape on her;
- (ii) after killing a woman, disposing off her body by chopping her body into pieces or by burning her body in a *tandoor* or other places or by burning her body by sprinkling petrol, kerosene or such other inflammable objects or by any other means;
- (iii) burning a woman alive leading to her death;
- (iv) killing a woman by way of gangrape and
- (v) committing rape on a pregnant woman resulting in her death or miscarriage;

(c) prescribed means prescribed by rules made under this Act;

(d) "Special Court" means a Special Court constituted under section 4;

(e) Woman means a female human being of any age.

3. Any person who commits barbarous and beastly cruelty against woman shall be punished with death.

Punishment for a barbarous and beastly cruelty against women.

Constitution of Special Courts.

Jurisdiction of the Special Court.

Offence to be cognizable and non-bailable.

Bar on granting anticipatory bail.

Power to remove difficulty.

Overriding effect.

Power to make rules.

4. (1) The appropriate Government shall, in consultation with the Chief Justice of the High Court in the case of a State, and Chief Justice of India in other cases, by notification in the Official Gazette, constitute such number of Special Courts as it may deem necessary for the purposes of this Act.

(2) The set up of a Special Court established under sub-section (1) shall be such as may be prescribed.

5. Notwithstanding anything contained in the Code of Criminal Procedure, 1973 or any other law for the time being in force, every offence punishable under this Act shall be triable only by the Special Court constituted for trying such offences under section 4.

6. Notwithstanding anything contained in the Code of Criminal Procedure, 1973 an offence committed under this Act shall be cognizable and non-bailable.

7. Notwithstanding anything contained in any other law for the time being in force, no court other than the Supreme Court or the High Court shall have the authority to grant anticipatory bail to any person accused of committing an offence under this Act.

8. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, not inconsistent with the provisions of this Act, remove the difficulty.

9. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force but, save as aforesaid, the provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force relating to cruelty against women.

10. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

2 of 1974

2 of 1974

STATEMENT OF OBJECTS AND REASONS

Women are the most vulnerable part of our Society. They have been subjected to various kinds of atrocities since time immemorial. In past when the civilization had not developed woman was treated as an object and exploited to the maximum. When a king used to invade another kingdom the first target used to be women. However with the progress of civilization this vulnerable part of the society has got some respect but still inhuman atrocities continue to be committed on her. She is still not safe in the society. Sex maniacs and persons with perverted mentality always remain in search of an opportunity to pounce on her for sexual abuse. Beastly crime of rape does not stop there. In many cases after raping the hapless woman she is finished ruthlessly. She is either battered to death or strangulated. Sometimes as if the killing is not enough, her body is chopped off into pieces and dumped into a gunny bag and thrown in near by nullah or jungle. The sex maniac beasts many a times commit this horrible crime on innocent girls of the age of some weeks or years. Many a times gangrape is committed on a woman and to wipe out the evidence she is killed and every effort is made to dispose off her body.

However this barbarous and beastly cruelty was visible in its ugliest form recently when a woman was killed by her own husband who also attempted to destroy her body in a 'Tandoor' of a celebrated hotel in the heart of the national capital. This inhuman act rocked the entire nation.

Similarly barbarous atrocities are committed on woman when a pregnant woman is raped resulting in her death or miscarriage. Unfortunately these atrocities on women are committed with full knowledge and many a times to take revenge either with her or with some of her family members.

These barbarous and beastly cruelties against women will have to be prevented with a heavy hand by providing capital punishment for such beastly acts. Such offences should be tried by Special Courts and they should be declared cognizable and non-bailable. It is hoped that deterrent punishment for such crimes will certainly reduce the number of such crimes against women and girls who are not safe anywhere in the world.

This Bill seeks to achieve the above objects.

SAROJ KHAPARDE

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for establishment of Special Courts for trying the offences committed under this Act. The Bill, if enacted and brought into force will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees ten crores may involve as recurring expenditure per annum.

It is also estimated that sum of rupees two crores may involve as non-recurring expenditure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Bill gives power to the Central Government to make rules for carrying out the purposes of this Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

V. S. RAMA DEVI,
Secretary-General.